

Gregg L. Weiner
 Stephen S. Rabinowitz
 Fried, Frank, Harris, Shriver
 & Jacobson LLP
 One New York Plaza
 New York, NY 10004
 (212) 859-4000

USDC SDNY
 DOCUMENT
 ELECTRONICALLY FILED
 DOC #: _____
 DATE FILED: 11-28-07

Attorneys for Plaintiff
 Keryx Biopharmaceuticals, Inc.

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

-----X
 KERYX BIOPHARMACEUTICALS, INC., :

Plaintiff, : ECF CASE

- against - : 07 Civ. 10376 (CSH)

PANION & BF BIOTECH, INC., : **PROPOSED ORDER**
GRANTING MOTION
FOR PRELIMINARY
INJUNCTION

Defendant. : *unr*

-----X

A motion having been made by plaintiff Keryx Biopharmaceuticals, Inc. ("Plaintiff" or "Keryx") upon notice to defendants Panion & BF Biotech, Inc. ("Defendants" or "Panion") as directed by the Court's November 19, 2007 Order to Show Cause; and this Court having considered Plaintiff's Motion by Order To Show Cause for a preliminary injunction, all papers submitted in support thereof, all papers submitted by Defendant in opposition thereto, and all papers submitted by Plaintiff in reply to Defendants opposition thereto; and this Court having heard oral argument by counsel for the parties; and this Court having found that Plaintiff has satisfied all the requirements of Rule 65 of the Federal Rules of Civil Procedure; and this Court

having found that Plaintiff shall be immediately and irreparably harmed pending a trial on this action in the absence of preliminary injunctive relief; therefore:

IT IS HEREBY ORDERED, pending trial of this matter, that Panion, its directors, officers, agents, servants, employees, attorneys, and others in active concert or participation with them who receive notice of this order, shall consult in good faith with Keryx concerning prosecution of licensed patent applications, including by: (a) instructing Panion's Japanese patent counsel to communicate directly with the patent counsel of Japan Tobacco concerning prosecution of Japanese Patent Application No. 10-527705, and (b) instructing Panion's Japanese patent counsel to request no later than 12:01 a.m. New York time (1:01 p.m. in Japan) on November 28, 2007, a three-month extension of the deadline for responding to the pending Office Action in Japanese Patent Application No. 10-527705; and further that service by fax or email of this order on Panion's Japanese patent counsel shall constitute good and sufficient instruction for taking the forgoing actions; and

IT IS HEREBY FURTHER ORDERED that Defendant, its directors, officers, agents, servants, employees, attorneys, and all other persons in active concert or participation with them who receive notice of this order, are preliminarily enjoined and restrained from ~~interfering with Keryx's rights under section 3.1 of the parties' License Agreement to develop the Product licensed under the License Agreement, including without limitation by interfering with~~ contractual relations with BRI Pharmaceutical Research, Inc. ("BRI"), BioVectra DCL ("BioVectra"), or the PharmPro Services division of Fluid Air, Inc. ("PharmPro") or ~~by bringing~~ new legal actions against BRI, BioVectra, or PharmPro ~~without prior order of the Court;~~ and

IT IS HEREBY FURTHER ORDERED that Defendant, its directors, officers, agents, servants, employees, attorneys, and all other persons in active concert or participation with them

who receive notice of this order are preliminary enjoined and restrained from serving a notice of termination under the License Agreement prior to January 30, 2008.

Dated: New York, New York
November 27, 2007.

5:11 P.m.


The Honorable Charles S. Haight,
United States District Judge

559890